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(A) The Licensor has given RUS sixty (60) days notice before termination; and

(B) RUS agrees with the Licensor that termination is the only method available to prevent significant harm to the Licensor from additional Licensee defaults.

(xiv) The obligations of Licensee and Licensor and any successors in title under this Agreement shall survive the termination of this Agreement and continue after any termination of rights granted hereunder.

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(xvi) This Software License Agreement shall prevail notwithstanding any conflicting terms or legends which may appear on or in the Licensed Software.

(xvii) If any Section or part thereof, in this Agreement shall be held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, then the meaning of such section or part shall be construed so as to render it enforceable, to the extent feasible; and if no feasible interpretation would save such section or part, it shall be severed from this Agreement and the remainder shall remain in full force and effect. However, in the event such section or part is considered an essential element of this Agreement, the parties shall promptly negotiate a replacement therefor.

(xviii) This Software License and any amendments thereto, or revisions thereof, are subject to RUS approval.

Licensor

Company
Name _____
By _____
Title _____
Date _____

Licensee

Company
Name _____
By _____
Title _____
Date _____

[End of clause]

(d) *Contract amendments.* (1) The general requirements for contract amendments are set forth in § 1753.11.

(2) Equipment contract amendments shall be prepared on RUS Contract Form 238, Construction or Equipment Contract Amendments.

(e) *Additions.* When additions to existing central office equipment are required:

(1) A proposal shall be requested from the supplier.

(2) The borrower shall prepare a plan containing an outline of the proposed use of the equipment, the proposal from the supplier and an estimate of the installation cost, and submit it to the GFR.

(3) After RUS approval of the supplier's proposal and the borrower's plan, the purchase may be made using RUS Contract Form 545 or, when applicable, the procedures contained in subpart I.

(4) If the purchase is to be made by contract, three executed copies of the contract with attachments are to be submitted to the RUS.

(5) Installation of the central office equipment and materials procured by RUS Contract Form 545 may be made in accordance with subpart I, if applicable, or by an approved FAP.

(f) *Preinstallation conference.* RUS recommends, but does not require, that the borrower hold a preinstallation conference, attended by the borrower, its engineer, equipment installers, and if possible the GFR, prior to the beginning of the installation of the central office equipment.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39397, Sept. 27, 1990, and amended at 59 FR 17679, Apr. 14, 1994]

§ 1753.39 Closeout documents.

Closeout of RUS Contract Form 525, Central Office Equipment Contract (Including Installation), and RUS Contract Form 545, Central Office Equipment Contract (Not Including Installation), shall be conducted as follows:

(a) *Contract amendments.* The borrower shall prepare and arrange for the execution and submission to RUS of any required contract amendments so that any changes in either contract will have been approved prior to the

time the closeout documents are prepared. RUS Contract Form 238, Construction or Equipment Contract Amendment, shall be used for this purpose.

(b) *Taxes.* Under the terms of RUS Contract Forms 525 and 545, the bid prices do not include any amounts which are or may be payable by the bidder or the borrower on account of taxes imposed upon the sale, purchase or use of equipment, material and software covered by the contracts. If any such tax is paid by the bidder, the contract requires that the amount is to be stated separately on all invoices and paid by the borrower.

(c) *Acceptance tests.* The borrower will perform acceptance tests in accordance with guidelines contained in the applicable TE&CM sections, as a part of the partial closeout and final closeout of RUS Contract Form 525.

(d) *Grounding system audit.* A grounding system audit shall be performed and found acceptable for equipment provided under Form 525 and 545 Contracts, prior to placing a central office or remote switching terminal into full service operation. The audits are to be conducted in accordance with guidelines contained in the applicable sections of RUS Form 522 "General Specification for Digital, Stored Program Controlled Central Office Equipment." The audits shall be performed by the contractor and borrower for Form 525 equipment and by the borrower for Form 545 equipment.

(e) *Partial Closeout Procedure.* Under conditions set forth in RUS Contract Form 525, a contractor may, when approved by the borrower, receive payment in full for central offices and their respective associated remote switching terminals upon completion of the installation without awaiting completion of the project where the contractor is to receive such payment, the procedure contained in the applicable sections of RUS Contract Form 525 shall be followed. In addition to complying with the appropriate partial closeout procedure contained in RUS Contract Form 525, the borrower shall:

- (1) Assemble and distribute the closeout documents specified in appendix B.
- (2) Submit one copy of Form 754 to RUS with the FRS, requesting the re-

maining funds due the contractor on the central offices and associated remote switching terminals involved.

(3) On receipt of the advance of loan funds, make prompt payment to the contractor.

(f) *Final Contract Closeout Procedure.* The documents required for the final closeout of the central office equipment contracts, RUS Contract Forms 525 and 545, are listed in appendix B, which also indicates the number of copies and their distribution. The procedure to be followed is outlined below:

(1) The borrower shall:

(i) Immediately following completion of the last central office equipment installation, arrange with the contractor's installer, connecting company (where necessary), and the GFR for performance of the acceptance tests of offices not previously tested. The date for testing should be established so that the installer will not be required to return to the site for the sole purpose of assisting in these tests. Acceptance tests shall be performed within 30 days of completion of the installation, unless otherwise requested in writing by the contractor and approved in writing by the borrower.

(ii) When the acceptance tests have been satisfactorily completed and the contractor has corrected all the discrepancies:

(A) Prepare and assemble the documents listed in appendix B, Documents Required to Close Out Central Office Equipment Contracts.

(B) Notify the GFR that the project is ready for final RUS inspection.

(iii) Make the documents listed in appendix B available for GFR review on the date of final inspection.

(iv) Distribute the documents as indicated in appendix B, including submission to the GFR of all documents required by RUS.

(2) The documents required and the procedure to be used for equipment purchased and/or installations made using the method of minor construction are set forth in subpart I.

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(g) Final payment shall be made according to the payment terms of the contract.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39397, Sept. 27, 1990, and amended at 59 FR 31126, June 17, 1994; 59 FR 43717, Aug. 25, 1994]

§§ 1753.40—1753.45 [Reserved]

Subpart F—Outside Plant Major Construction by Contract

SOURCE: 54 FR 39267, Sept. 25, 1989, unless otherwise noted. Redesignated at 55 FR 39397, Sept. 27, 1990.

§ 1753.46 General.

(a) This subpart implements and explains the provisions of the loan documents setting forth the requirements and procedures to be followed by borrowers when outside plant major construction by contract is financed by loan funds. Terms used in this subpart are defined in § 1753.2 and RUS Contract Form 515.

(b) The contract method for major construction is described in § 1753.5(b).

(c) The two contract forms which may be used for major outside plant construction are Form 515 and Form 773. Limitations on the applicability of these forms shall be as follows:

(1) Form 515 shall be used for major outside plant construction projects which will be competitively bid. The contract contains plans and specifications and has no dollar limitation. See §§ 1753.47, 1753.48 and 1753.49.

(2) A Form 515 contract which is for less than \$200,000, may, at the borrower's option, be negotiated. See § 1753.48(b).

(3) Form 773 shall be used for major outside plant projects which may not be competitively bid, and which cannot be designed and staked at the time of contract execution. Projects of this nature include routine line extensions and placement of subscriber drops. The Form 773 contract is limited to a maximum of \$200,000. In any twelve month period, RUS will not finance more than \$400,000, or ten per cent (10%) of the borrower's previous year's outside plant total construction, whichever is greater, in Form 773 contracts for a borrower. This limitation includes all

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major and minor outside plant construction performed under Form 773 contracts, and is determined by the date the Form 773 contract is executed. See 7 CFR § 1753.50.

[54 FR 39267, Sept. 25, 1989. Redesignated at 55 FR 39397, Sept. 27, 1990, and amended at 59 FR 43717, Aug. 25, 1994]

§ 1753.47 Plans and specifications (P&S).

(a) *General.* (1) Prior to the preparation of P&S for the construction project:

(i) A review shall be made of the outside plant requirements, and the Loan Design (LD) shall be revised to reflect any needed changes (See § 1753.3).

(ii) Deviations from the approved LD (7 CFR part 1737) must be approved by RUS (See § 1753.3).

(2) The standard RUS specifications required for construction of outside plant facilities are:

(i) RUS Form 515a (Bulletin 345–150)—Specifications and Drawings for Construction of Direct Buried Plant.

(ii) RUS Form 515c (Bulletin 345–151)—Specifications and Drawings for Conduit and Manhole Construction.

(iii) RUS Form 515d (Bulletin 345–152)—Specifications and Drawings for Underground Cable Installation.

(iv) RUS Form 515f (Bulletin 345–153)—Specifications and Drawings for Construction of Pole Lines and Aerial Cables.

(v) RUS Form 515g (Bulletin 345–154)—Specifications and Drawings for Service Entrance and Station Protector Installation.

(b) *Preparation of plans and specifications.* Each set of plans and specifications shall include:

(1) RUS Contract Form 515, “Telephone System Construction Contract (Labor and Materials).”

(2) The specifications described in paragraph (a)(2) of this section as specified by the borrower in the RUS Contract Form 515.

(3) Description of special assembly units and guide drawings, if any.

(4) Key, detail, and cable layout maps.

(5) RUS Contract Form 787, “Supplement A to Construction Contract, RUS Contract Form 515,” when the borrower proposes to provide any materials to